

U.S. PATENT APPLICATION NO. 10/664,891  
Attorney Docket No. 1061/6REMARKS

This communication responds to the Office Action mailed May 28, 2008. Claims 1-54 were originally filed. Claims 1-7 and 28-34 remain pending and unchanged from their prior versions. Claims 8-27 and 35-54 have been previously cancelled without disclaimer of or prejudice to the subject matter contained therein. Claims 55-66 have been added to further define the present invention.

**CLAIMS 1-2 AND 7 ARE PATENTABLE OVER SANDERS**

The Examiner rejected claims 1-2 and 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0042036 by Sanders [hereinafter "Sanders"] in view of U.S. Patent Application No. 6,078,904 to Rebane [hereinafter "Rebane"]. The Applicant respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

In his last response, the Applicant argued that the cited references fail to disclose "determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic." In the Examiner's response to the Applicant's last arguments, the Examiner contends that both Rebane and Sanders teach purchasing on margin, and that Rebane teaches "determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased so that a riskiness characteristic (risk tolerance function) matches a user specified riskiness characteristic." Notably missing from this is that the amount of a desired portfolio that must be purchased ON MARGIN.

The Examiner cites col. 4, lines 37-50 from Rebane as teaching "determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased so that a riskiness characteristic

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(risk tolerance function) matches a user specified riskiness characteristic." This citation from Rebane  
is reproduced below:

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## SUMMARY OF THE INVENTION

The present invention, the Risk Direct Asset Allocation and Risk Resolved CAPM, overcomes the limitations of conventional portfolio design methods including the CAPM, and software products by determining for an individual investor that investor's risk tolerance function and selecting a monetary allocation of investment assets according to both the risk tolerance function, and quantifiable risk dispersion characteristics of a given allocation of investment assets in the portfolio. Generally RDAA and RR/CAPM are based on integrating key elements of modern utility, securities' performance prediction, and optimization theories (see, e.g., [1], [2], [3]) that relate to risk averse behavior in matters of monetary uncertainty.

The above citation does not disclose determining an amount of a desired portfolio to be purchased, but rather the asset allocation mix of the portfolio. As an aside, to have an asset allocation one must have multiple elements within the portfolio.

Let's examine the feature at issue, which is: "determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic." This feature inherently includes several steps. First, the feature requires that a determination be made as to the riskiness characteristic of a desired portfolio of assets/rights/liabilities. Then, a determination must be made as to the difference between the user's specified riskiness characteristic and the riskiness characteristic just

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characteristic just determined. Finally, a determination must be made as to how much of the desired portfolio must be purchased (without modifying the asset allocation mix) to modify the riskiness characteristic of the portfolio actually purchased so that it now matches the user's specifications.

Rebane merely teaches as to how to allocate funds across a portfolio of multiple elements so that a user can obtain a desired riskiness characteristic. Thus, Rebane teaches that one modifies the percentages of monies invested in each asset/right/liability within the portfolio so that the resulting riskiness characteristic matches the user preferences. This is modifying the asset allocation mix.

In contrast, the present invention does not modify the allocation percentages for each of the various assets/rights/liabilities but keeps these the same. To achieve the user specified riskiness characteristic for the entire portfolio of multiple elements, the present invention adjusts an amount of the entire portfolio that is purchased ON MARGIN so that the resulting riskiness characteristic now matches the user specified riskiness characteristic.

The Examiner cites Sanders as teaching that investors can directly control risk and that risk tolerance is customizable. But, Sanders fails to relate the control of risk to the effect that the purchase ON MARGIN of an entire portfolio would have on the entire portfolio's riskiness characteristic.

Lastly, the Examiner contends that a portfolio can consist of a single security, and that a single security, such as a mutual fund, can be a portfolio. The Applicant has amended the claims to indicate that a portfolio comprises a plurality of assets/rights/liabilities. While a mutual fund may have constituent elements, a mutual fund remains a single security that is traded as a single security. For example, a stock of a large corporation potentially represents many diverse business units.

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Similarly, a mutual fund represents many diverse stocks. Nevertheless, a mutual fund remains a single asset/right/liability and is recognized as such throughout the investment community.

In light of the above remarks, the Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claims 1-2 and 7.

**CLAIMS 3 AND 6****ARE PATENTABLE OVER SANDERS, REBANE AND HORNER ET AL.**

The Examiner rejected claims 3 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane and further in view of U.S. Patent Application Publication No. 2003/0009409 by Horner et al. [hereinafter "Horner et al."]. The Examiner contends that the above mentioned combination of Sanders and Rebane fails to disclose interacting with a graphical user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that Sanders and Rebane fails to disclose this teaching, but disagrees that the combination of Sanders and Rebane discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders and Rebane fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim 1.

Moreover, Horner et al. also fails to teach or suggest this teaching missing from the combination of Sanders and Rebane.

Because the combination of Sanders, Rebane and Horner et al. fails to teach or suggest all of the elements from claim 1, claim 1 is patentable over Sanders, Rebane and Horner et al., either taken

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alone or in any combination. Moreover, as claims 3 and 6 depend from claim 1, claims 3 and 6 are also patentable over Sanders, Rebane and Horner et al. for at least the same reasons as claim 1. Therefore, the Applicant respectfully submits that the claims 3 and 6 are patentable over Sanders, Rebane and Horner et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

**CLAIMS 28-30 AND 33-34****ARE PATENTABLE OVER SANDERS, REBANE AND HORNER ET AL.**

The Examiner rejected claims 28-30 and 33-34 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane and further in view of Horner et al. The Examiner contends that Sanders the combination of Sanders and Rebane discussed above fails to disclose a computer including a display and a user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that the combination of Sanders and Rebane fails to disclose this teaching, but disagrees that the combination of Sanders and Rebane discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders and Rebane fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim 28. Moreover, as shown above Horner et al. also fails to teach or suggest this teaching missing from Sanders. Therefore, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest all of the elements from claim 28; hence claim 28 and those that depend therefrom are patentable over the combination of Sanders, Rebane and Horner et al.

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As such, the Applicant respectfully submits that the claims 28-30 and 33-34 are patentable over Sanders, Rebane and Horner et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

#### CLAIMS 4 AND 31

#### ARE PATENTABLE OVER SANDERS, REBANE, HORNER ET AL. AND NOLAN

The Examiner rejected claims 4 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane, and further in view of Horner et al. and further in view of U.S. Patent No. 5,754,873 to Nolan [hereinafter "Nolan"]. The Examiner contends that the combination of Sanders, Rebane and Horner et al. fails to disclose a slider bar, but cites Nolan for this teaching. The Applicant agrees with the Examiner that the combination of Sanders, Rebane and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders, Rebane and Horner et al. discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Nolan also fails to teach or suggest this teaching missing from the combination of Sanders, Rebane and Horner et al. Therefore, the combination of Sanders, Rebane, Horner et al. and Nolan fails to teach or suggest all of the elements from claims 1 and 28; hence claims 1 and 28 and those that depend therefrom are patentable over the Sanders, Rebane, Horner et al. and Nolan.

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As such, the Applicant respectfully submits that the claims 4 and 31 are patentable over Sanders, Rebane, Horner et al. and Nolan, either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

### CLAIMS 5 AND 32

#### ARE PATENTABLE OVER SANDERS, REBANE, HORNER ET AL. AND MARKS ET AL.

The Examiner rejected claims 5 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Rebane, and further in view of Horner et al. and further in view of U.S. Patent Application Publication No. 2001/0053944 to Marks et al. [hereinafter "Marks et al."]. The Examiner contends that the combination of Sanders, Rebane and Horner et al. fails to disclose an arrow on a dial, but cites Marks et al. for this teaching. The Applicant agrees with the Examiner that the combination of Sanders, Rebane and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders, Rebane and Horner et al. discloses the remaining elements of the claims at issue.

As shown above, the combination of Sanders, Rebane and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Marks et al. also fails to teach or suggest this teaching missing from the combination of Sanders, Rebane and Horner et al. Therefore, the combination of Sanders, Rebane, Horner et al. and Marks et al. fails to teach or suggest all of the elements from claims 1 and 28; hence

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hence claims 1 and 28 and those that depend therefrom are patentable over Sanders, Rebane, Horner et al. and Marks et al.

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As such, the Applicant respectfully submits that the claims 5 and 32 are patentable over Sanders, Rebane, Horner et al. and Marks et al., either taken alone or in any combination, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

## CONCLUSION

Reconsideration and withdrawal of all of the rejections are requested in view of the previous remarks. The Applicants respectfully submit this Application is in condition for allowance and request issuance of a Notice of Allowance.

If additional amounts are due for any reason it is respectfully requested that the PTO charge any deficiency or credit any overpayment to the deposit account of MICHAEL P FORTKORT PC, Deposit Account No. 50-3776.

In the event the prosecution of this application can be efficiently advanced by a phone discussion, it is requested that the undersigned attorney be called at (703) 435-9390.

Respectfully submitted,

By

  
Michael P. Fortkort Reg. No. 35,141Date: October 17, 2008

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